

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

vs.

BNSF RAILWAY COMPANY,

Defendant.

Case No. 8:21-CV-369

**DEFENDANT’S MOTION TO
DISMISS PLAINTIFF’S
FIRST AMENDED
COMPLAINT UNDER FED.
R. CIV. P. 12(b)(6)**

Defendant BNSF Railway Company (“BNSF”), according to Fed. R. Civ. P. 12(b)(6), moves the Court for an Order dismissing Plaintiff’s First Amended Complaint (Doc. 10) against it in its entirety for the reason that the First Amended Complaint fails to state a claim upon which relief can be granted against BNSF. In the alternative to dismissing the First Amended Complaint in its entirety, it should be dismissed to the extent its claims are based on time-barred conduct under 42 U.S.C. § 2000e-5(e)(1). In support of this Motion, and according to NECivR 7.1(a)(1)(A), BNSF has filed a supporting brief contemporaneously with this Motion.

WHEREFORE, BNSF respectfully requests according to Fed. R. Civ. P. 12(b)(6) that the Court enter an Order dismissing the First Amended Complaint (Doc. 10) against it in its entirety, or in the alternative, dismiss the EEOC’s claims based on time-barred conduct under 42 U.S.C. § 2000e-5(e)(1).

DATED this 3rd day of January, 2022.

BNSF Railway Company,
Defendant

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ATTORNEYS FOR BNSF RAILWAY
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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of January, 2022, I electronically filed the foregoing ***Defendant's Motion to Dismiss Plaintiff's First Amended Complaint Under Fed. R. Civ. P. 12(b)(6)*** with the Clerk of the Court using CM/ECF system which sent notification of such filing to the below registered participants:

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